

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CHARLES SMALL,

Plaintiff,

vs.

MATTHEW MARTEL, as an individual, and as the warden from the California Rehabilitation Center; GUILLERMINA HALL MURRAY, as an individual, and as the warden from the California Rehabilitation Center; SHERIFF WILLIAM KOLENDER, as an individual and on behalf of THE GEORGE BAILEY DETENTION FACILITY; BONNIE DUMANIS, as an individual, and DOES 1-50,

Defendants.

CASE NO. 09 CV 913 JM (POR)

ORDER GRANTING VOLUNTARY DISMISSAL OF DEFENDANT DUMANIS; DENYING DEFENDANT DUMANIS'S MOTION TO DISMISS AS MOOT

Doc. Nos. 12, 7

Pending before the court is Plaintiff's request for voluntary dismissal of Defendant Dumanis without prejudice. (Doc. No. 12). A "plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). Defendant Dumanis has filed a motion to dismiss, but has not filed either an answer or a motion for summary judgment. Accordingly, the action against Defendant Dumanis is hereby DISMISSED WITHOUT PREJUDICE.

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1 Furthermore, Defendant Dumanis's motion to dismiss (Doc. No. 7) is hereby DENIED as
2 moot.

3 **IT IS SO ORDERED.**

4 DATED: October 19, 2009



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6 Hon. Jeffrey T. Miller
United States District Judge

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